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IN THE
COURT OF APPEALS OF INDIANA

GORDON HANCOCK,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 03A01-0610-CR-431
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE BARTHOLOMEW SUPERIOR COURT
The Honorable Chris D. Monroe, Judge
Cause No. 03D01-0606-FD-1073

May 25, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Gordon Hancock appeals his sentence for class D felony Residential Entry.[1] Specifically, Hancock asserts that, by enhancing his residential entry sentence, the trial court abused its discretion. He further claims that his sentence is inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

At approximately 1:00 a.m. on June 15, 2006, Hancock broke into his former girlfriend's (Perre Dunbar) home, while she was sleeping. Hancock entered Dunbar's house by removing a window fan and "busting through" the bedroom window. *Appellant's Appendix* at 12. Hancock proceeded to physically beat Dunbar by punching her in the face ten to twelve times. Dunbar broke free from Hancock, fled to a neighbor's house while having to leave her three-year-old daughter behind, and called 911. Hancock pursued Dunbar and tried to gain entry to the neighbor's house by kicking in the door. Dunbar was unable to break in and fled before the police arrived. Police apprehended Hancock later that same morning.

On June 16, 2006, the State charged Hancock with class A misdemeanor domestic battery, class A misdemeanor battery resulting in bodily injury, class A misdemeanor possession of marijuana, and two counts of class D felony residential entry. At the initial hearing, Hancock pleaded not guilty to all five counts; but, on August 21, 2006, Hancock entered a plea agreement with the State whereby he agreed to plead guilty to one count of

[1] Ind. Code Ann. § 35-43-2-1.5 (West 2004).

class D felony residential entry and to the class A misdemeanor domestic battery charge.[2] In exchange for his plea, the remaining charges were dropped.

The trial court held a sentencing hearing on September 26, 2006. Upon hearing evidence presented by the parties, the trial court accepted Hancock's plea and sentenced him to two and one-half years on the residential entry count, and one year on the domestic battery count. The trial court then ordered the sentences to be served consecutively, suspended six months of the residential entry sentence, suspended the entire sentence on the domestic battery, and ordered Hancock placed on probation for eighteen months following his incarceration. This appeal ensued.

Hancock first asserts that the trial court abused its discretion in enhancing his sentence on the residential entry conviction. It is well established that sentencing decisions lie within the trial court's discretion. *Williams v. State*, 861 N.E.2d 714 (Ind. Ct. App. 2007). Those decisions are given great deference on appeal and will be reversed only for an abuse of discretion. *Golden v. State*, 862 N.E.2d 1212 (Ind. Ct. App. 2007).

As noted in *McDonald v. State*, 861 N.E.2d 1255 (Ind. Ct. App. 2007), *trans. pending*, this Court is currently divided as to whether it is to review aggravators and mitigators found by the trial court in light of recent amendments to our sentencing statutes. *See id*. Under our new advisory sentencing scheme, a court may impose any sentence authorized by statute "regardless of the presence or absence of aggravating circumstances or mitigating circumstances." Ind. Code Ann. § 35-38-1-7.1(d) (West,

[2] Hancock does not challenge the trial court's sentence on the class A misdemeanor domestic battery conviction.

PREMISE through 2006 2nd Regular Session). Although our Supreme Court has not yet interpreted this statute, its plain language indicates that a sentencing court is under no obligation to find, consider, or weigh either aggravating or mitigating circumstances. *McDonald v. State*, 861 N.E.2d 1255. We therefore follow *McDonald* and conclude that a challenge to the trial court's sentencing statement presents no issue for appellate review when the sentence is authorized by statute.

Here, Hancock pleaded guilty to class D felony residential entry. "A person who commits a Class D felony shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years." Ind. Code Ann. § 35-50-2-7 (West, PREMISE through 2006 2nd Regular Session). The trial court sentenced Hancock to two and one-half years on the residential entry conviction and suspended six months. Thus, Hancock's sentence for residential entry was authorized by statute, and the trial court could not have abused its discretion by imposing such a sentence.

Hancock next asserts that his residential entry sentence is inappropriate in light of the nature of his offenses and his character. Under article VII, section 6 of the Indiana Constitution, this court has the constitutional authority to review and revise sentences. *Smith v. State*, 839 N.E.2d 780 (Ind. Ct. App. 2005). We will not do so, however, unless the sentence "is inappropriate in light of the nature of the offense and the character of the offender." *Martin v. State*, 784 N.E.2d 997, 1013 (Ind. Ct. App. 2003); Ind. Appellate Rule 7(B) (2007). While we must give due consideration to the trial court's sentence because of the special expertise of the trial court in making sentencing decisions, Indiana

App. R. 7(B) is an authorization to revise sentences when certain broad conditions are satisfied. *Smith v. State*, 839 N.E.2d 780.

Regarding the nature of the offenses, Hancock broke into his former girlfriend's house in the middle of the night and punched her in the face ten to twelve times while she was sleeping. Still not satisfied, Hancock pursued Dunbar as she fled to a neighbor's house and attempted to break into that house as well. Hancock's actions on the night in question were deliberate, unprovoked, unyielding, and indicate an extreme disregard for the lives of others.

As for the character of the offender, Hancock offers no evidence as to what aspect of his character makes the trial court's sentence inappropriate under the facts of this case, other than the fact he was under a lot of stress. To the contrary, however, several of the trial court's statements made during sentencing indicate that Hancock has a significant criminal history. The trial court's statements, in pertinent part, were as follows:

> I don't understand how being under stress for several months explains beating the crap out of somebody. And if you're drinking because you choose to, then you're responsible for what happens after you voluntarily decide to drink. And you beat her up. And these pictures portray a completely different story than the one you tell . . . . [A]nd then [you] just beat the crap out of her. . . .
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> * * * *
>
> You have broken into residences before. A B felony burglary . . . a residential burglary back in [1990]. So this is not something that is brand new, out of the ordinary for you. You have a C felony battery conviction from [1993]. So that's not new. So those two prior convictions which are similar in nature but separated by a period of years indicate a propensity to do these kinds of things.

Appellant's Appendix at 19 - 20.

As stated earlier, this court exercises great restraint in revising the trial court's sentence in light of its special expertise in making sentencing decisions. *Scott* v. *State*, 840 N.E.2d 376 (Ind. Ct. App. 2006), *trans. denied*. Based on the foregoing, we are not persuaded that Hancock has carried his burden of establishing, in light of the nature of his offenses or his character, that the trial court's sentence is inappropriate.

Judgment affirmed.

BAKER, C.J., and CRONE, J., concur.